

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

AT SEATTLE

FRANCES SAMANIEGO,) Case No.
Plaintiff,)
vs.) **COMPLAINT**
NCO FINANCIAL SYSTEMS, INC.,) **JURY TRIAL DEMANDED**
Defendant.)

I. NATURE OF ACTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA") and of the Revised Code of Washington, Chapter 19.16, both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of privacy by intrusion, ancillary to Defendant's collection efforts.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

III. PARTIES

3. Plaintiff, Frances Samaniego, is a natural person residing in the State of Washington, County of King, and City of Tukwila.

4. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3), and a “debtor” as defined by RCW § 19.16.100(11).

5. At all relevant times herein, Defendant, NCO Financial Systems, Inc., (“Defendant”) was a limited liability company engaged, by use of the mails and telephone, in the business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C. §1692a(5).

6. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6), and a “licensee,” as defined by RCW § 19.16.100(9).

IV. FACTUAL ALLEGATIONS

7. At various and multiple times prior to the filing of the instant complaint, including within the one hundred twenty days preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendant's conduct violated the FDCPA and RCW § 19.16 in multiple ways, including but not limited to:

1 a) Failure to provide notification of Plaintiff's rights pursuant to
2 15 USC § 1692g, including failure to timely notify Plaintiff of
3 her right to dispute the debt (§ 1692g));

4 b) Communicating repeatedly with Plaintiff at times and places
5 which are known or which should be known to be inconvenient,
6 including calling her workplace after being told by Plaintiff
7 repeatedly that such calls were inconvenient (§ 1692c(a)(1));

8 c) Causing Plaintiff's telephone to ring repeatedly and
9 continuously with intent to harass, abuse or annoy Plaintiff,
10 including making calls in a continuous manner to her workplace
11 (§ 1692d(5));

12 d) Threatening to take actions that cannot legally be taken or
13 that are not intended to be taken, including threatening to
14 continue calling her workplace continuously for the entire day
15 after Plaintiff had informed Defendant that such calls were
16 inconvenient (§ 1692e(5)).

17 9. Defendant's aforementioned activities, set out in paragraph 8, also
18 constitute an intentional intrusion into Plaintiff's private places and into private
19 matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable
20 person. With respect to the setting that was the target of Defendant's intrusions,
21 Plaintiff had a subjective expectation of privacy that was objectively reasonable
22 under the circumstances.

23 10. As a result of Defendant's behavior, detailed above, Plaintiff
24 suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation,
25 embarrassment, mental anguish and emotional distress.

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**COUNT I: VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT**

11. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY
ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON
CONSUMER PROTECTION ACT**

12. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- B. Actual damages;
- C. Discretionary Treble Damages;

1 D. Costs and reasonable attorney's fees,
2 F. For such other and further relief as may be just and proper.

3 **COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION**

4 13. Plaintiff reincorporates by reference all of the preceding paragraphs.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff respectfully prays that judgment be entered
7
8 against the Defendant for the following:

9 10 A. Actual damages
11 B. Punitive Damages; and,
12 C. For such other and further relief as may be just and proper.

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14
15 Respectfully submitted this 21st day of May, 2008.

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17
18 s/Jon N. Robbins
19 Jon N. Robbins
20 WEISBERG & MEYERS, LLC
21 Attorney for Plaintiff